

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DONNA J. ALTOONIAN,

Petitioner,

v.

Civil No. 5:08-CV-11189

HONORABLE JOHN CORBETT O'MEARA

UNITED STATES DISTRICT JUDGE

MILLICENT WARREN,

Respondent,

**OPINION AND ORDER GRANTING PETITIONER'S MOTION FOR AN
ENLARGEMENT OF TIME TO RE-FILE HER PETITION FOR WRIT OF
HABEAS CORPUS WITH THIS COURT**

Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, in which she sought relief from her convictions for two counts of first-degree murder and one count of felony-firearm. On June 8, 2010, this Court held the petition for writ of habeas corpus in abeyance to permit petitioner to return to the state courts to exhaust additional claims which had not yet been presented to the state courts. The Court conditioned this tolling upon petitioner initiating her state post-conviction remedies within sixty days of receiving this Court's order and returning to federal court within sixty days of completing the exhaustion of her state court post-conviction remedies. On August 5, 2010, this Court granted petitioner a sixty day extension to file her motion for relief from judgment with the state court.

Petitioner has now filed a motion for an enlargement of time to re-file her petition

for writ of habeas corpus with this Court following the exhaustion of her claims in the state courts. For the reasons that follow, the Court will grant the motion for a ninety day extension of time for petitioner to re-file her petition for writ of habeas corpus with this Court.

The Court will grant petitioner a ninety day enlargement of time to re-file her habeas petition with this Court. A federal district court has the power to extend the stay of a habeas petition, particularly where the respondent does not oppose the extension of the stay. *See e.g. Roberts v. Norris*, 415 F.3d 816, 819 (8th Cir. 2005). In the present case, petitioner has done all that she could reasonably do to re-file her habeas petition with this Court following the exhaustion of her state court remedies, but was “prevented in some extraordinary way” from re-filing her petition with this Court on time. Accordingly, an enlargement of time should be granted to petitioner. *See Schillereff v. Quarterman*, 304 Fed.Appx. 310, 314 (5th Cir. 2008).

ORDER

IT IS HEREBY ORDERED that the motion for a ninety day enlargement of time [Dkt. # 17] is GRANTED. Petitioner shall have ninety days from the date of this order to re-file her habeas petition with this Court. Petitioner is also free at that time to file an amended habeas petition which contains any newly exhausted claims.

s/John Corbett O'Meara
United States District Judge

Date: August 15, 2013

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, August 15, 2013, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager